

Calendar No. 610

107TH CONGRESS
2^D SESSION**S. 975****[Report No. 107-290]**

To improve environmental policy by providing assistance for State and tribal land use planning, to promote improved quality of life, regionalism, and sustainable economic development, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2001

7Mr. CHAFEE (for himself, Mr. BENNETT, Mr. JEFFORDS, Mr. LEVIN, Mr. SPECTER, Mr. BINGAMAN, Mr. CLELAND, Mr. LIEBERMAN, and Mr. TORRICELLI) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

SEPTEMBER 18, 2002

Reported by Mr. JEFFORDS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To improve environmental policy by providing assistance for State and tribal land use planning, to promote improved quality of life, regionalism, and sustainable economic development, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Community Character
3 Act of 2001”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) inadequate land use planning at the State
7 and tribal levels contributes to—

8 (A) increased public and private capital
9 costs for public works infrastructure develop-
10 ment;

11 (B) environmental degradation;

12 (C) weakened regional economic develop-
13 ment; and

14 (D) loss of community character;

15 (2) land use planning is rightfully within the ju-
16 risdiction of State, tribal, and local governments;

17 (3) comprehensive land use planning and com-
18 munity development should be supported by Federal,
19 State, and tribal governments;

20 (4) States and tribal governments should pro-
21 vide a proper climate and context through legislation
22 in order for comprehensive land use planning, com-
23 munity development, and environmental protection
24 to occur;

25 (5)(A) many States and tribal governments
26 have outmoded land use planning legislation; and

1 (B) many States and tribal governments are
 2 undertaking efforts to update and reform land use
 3 planning legislation;

4 (6) the Federal Government and States should
 5 support the efforts of tribal governments to develop
 6 and implement land use plans to improve environ-
 7 mental protection, housing opportunities, and socio-
 8 economic conditions for Indian tribes; and

9 (7) the coordination of use of State and tribal
 10 resources with local land use plans requires addi-
 11 tional planning at the State and tribal levels.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) **LAND USE PLAN.**—The term “land use
 15 plan” means a plan for development of an area that
 16 recognizes the physical, environmental, economic, so-
 17 cial, political, aesthetic, and related factors of the
 18 area.

19 (2) **LAND USE PLANNING LEGISLATION.**—The
 20 term “land use planning legislation” means a stat-
 21 ute, regulation, executive order, or other action
 22 taken by a State or tribal government to guide, reg-
 23 ulate, or assist in the planning, regulation, and man-
 24 agement of—

25 (A) environmental resources;

- 1 ~~(B)~~ public works infrastructure;
- 2 ~~(C)~~ regional economic development;
- 3 ~~(D)~~ current and future development prac-
- 4 tices; and
- 5 ~~(E)~~ other activities related to the pattern
- 6 and scope of future land use.

7 ~~(3) SECRETARY.~~—The term “Secretary” means

8 the Secretary of Commerce, acting through the As-

9 sistant Secretary of Commerce for Economic Devel-

10 opment.

11 ~~(4) STATE.~~—The term “State” means a State,

12 the District of Columbia, the Commonwealth of

13 Puerto Rico, the Virgin Islands, Guam, American

14 Samoa, and the Commonwealth of the Northern

15 Mariana Islands.

16 ~~(5) TRIBAL GOVERNMENT.~~—The term “tribal

17 government” means the tribal government of an In-

18 dian tribe (as defined in section 4 of the Indian Self-

19 Determination and Education Assistance Act (25

20 U.S.C. 450b)).

21 **SEC. 4. GRANTS TO STATES AND TRIBAL GOVERNMENTS TO**

22 **UPDATE LAND USE PLANNING LEGISLATION.**

23 ~~(a) ESTABLISHMENT OF PROGRAM.~~—

24 ~~(1) IN GENERAL.~~—The Secretary shall establish

25 a program to award grants to States and tribal gov-

ernments eligible for funding under subsection (b) to promote comprehensive land use planning at the State, tribal, and local levels.

(2) GRANT APPLICATIONS.—

(A) SUBMISSION.—A State or tribal government may submit to the Secretary, in such form as the Secretary may require, an application for a grant under this section to be used for 1 or more of the types of projects authorized by subsection (c).

(B) APPROVAL.—The Secretary shall—

(i) not less often than annually, complete a review of the applications for grants that are received under this section; and

(ii) award grants to States and tribal governments that the Secretary determines rank the highest using the ranking criteria specified in paragraph (3).

(3) RANKING CRITERIA.—In evaluating applications for grants from eligible States and tribal governments under this section, the Secretary shall consider the following criteria:

(A) As a fundamental priority, the extent to which a State or tribal government has in ef-

1 fect inadequate or outmoded land use planning
2 legislation.

3 ~~(B)~~ The extent to which a grant will facili-
4 tate development or revision of land use plans
5 consistent with updated land use planning legis-
6 lation.

7 ~~(C)~~ The extent to which development or re-
8 vision of land use plans will facilitate multistate
9 land use planning.

10 ~~(D)~~ The extent to which the area under
11 the jurisdiction of a State or tribal government
12 is experiencing significant growth.

13 ~~(E)~~ The extent to which the project to be
14 funded using a grant will protect the environ-
15 ment and promote economic development.

16 ~~(F)~~ The extent to which a State or tribal
17 government has committed financial resources
18 to comprehensive land use planning.

19 (b) **ELIGIBILITY.**—A State or tribal government shall
20 be eligible to receive a grant under subsection (a) if the
21 State or tribal government demonstrates that the project,
22 or the goal of the project, to be funded by the grant pro-
23 motes land use planning activities that—

24 ~~(1)~~ are comprehensive in nature and, to the
25 maximum extent practicable—

1 (A) promote environmental protection (in-
2 cluding air and water quality);

3 (B) take into consideration—

4 (i) public works infrastructure in ex-
5 istence at the time at which the grant is to
6 be made; and

7 (ii) future infrastructure needs, such
8 as needs identified in—

9 (I) the needs assessments re-
10 quired under sections 516(2) and
11 518(b) of the Federal Water Pollution
12 Control Act (33 U.S.C. 1375(2),
13 1377(b)) and subsections (h) and
14 (i)(4) of section 1452 of the Safe
15 Drinking Water Act (42 U.S.C. 300j-
16 12); and

17 (II) the State long-range trans-
18 portation plan developed under section
19 135(e) of title 23, United States
20 Code;

21 (C) promote sustainable economic develop-
22 ment (including regional economic development)
23 and social equity;

24 (D) enhance community character;

1 ~~(E)~~ conserve historic, scenic, natural, and
2 cultural resources; and

3 ~~(F)~~ provide for a range of affordable hous-
4 ing options;

5 ~~(2)~~ promote land use plans that contain an im-
6 plementation element that—

7 ~~(A)~~ includes a timetable for action and a
8 definition of the respective roles and respon-
9 sibilities of agencies, local governments, and
10 other stakeholders;

11 ~~(B)~~ is consistent with the capital budget
12 objectives of the State or tribal government;
13 and

14 ~~(C)~~ provides a framework for decisions re-
15 lating to the siting of infrastructure develop-
16 ment, including development of utilities and
17 utility distribution systems;

18 ~~(3)~~ result in multijurisdictional governmental
19 cooperation, to the maximum extent practicable, par-
20 ticularly in the case of land use plans based on wa-
21 tershed boundaries;

22 ~~(4)~~ encourage the participation of the public in
23 the development, adoption, and updating of land use
24 plans;

1 ~~(5)~~ provide for the periodic updating of land
2 use plans; and

3 ~~(6)~~ include approaches to land use planning
4 that are consistent with established professional land
5 use planning standards.

6 ~~(c)~~ USE OF GRANT FUNDS.—Grant funds received
7 by a State or tribal government under subsection (a) may
8 be used for a project—

9 ~~(1)~~ to carry out, or obtain technical assistance
10 with which to carry out—

11 ~~(A)~~ development or revision of land use
12 planning legislation;

13 ~~(B)~~ research and development relating to
14 land use plans; and other activities relating to
15 the development of State, tribal, or local land
16 use plans; that result in long-term policy guide-
17 lines for growth and development;

18 ~~(C)~~ workshops; education of and consulta-
19 tion with policymakers; and participation of the
20 public in the land use planning process; and

21 ~~(D)~~ integration of State, regional, tribal,
22 or local land use plans with Federal land use
23 plans;

24 ~~(2)~~ to provide funding to units of general pur-
25 pose local government to carry out land use planning

1 activities consistent with land use planning legisla-
 2 tion; or

3 ~~(3) to acquire equipment or information tech-~~
 4 ~~nology to facilitate State, tribal, or local land use~~
 5 ~~planning.~~

6 ~~(d) PILOT PROJECTS FOR LOCAL GOVERNMENTS.—~~

7 A State may include in its application for a grant under
 8 this section a request for additional grant funds with
 9 which to assist units of general purpose local government
 10 in carrying out pilot projects to carry out land use plan-
 11 ning activities consistent with land use planning legisla-
 12 tion.

13 ~~(e) AMOUNT OF GRANTS.—~~

14 ~~(1) IN GENERAL.—~~Except as provided in para-
 15 graph (2), the amount of a grant to a State or tribal
 16 government under subsection (a) shall not exceed
 17 \$1,000,000.

18 ~~(2) ADDITIONAL AMOUNT.—~~The Secretary may
 19 award a State up to an additional \$100,000 to fund
 20 pilot projects under subsection (d).

21 ~~(f) COST SHARING.—~~

22 ~~(1) IN GENERAL.—~~The Federal share of the
 23 cost of a project funded with a grant under sub-
 24 section (a) shall not exceed 90 percent.

1 (2) GRANTS TO TRIBAL GOVERNMENTS.—The
2 Secretary may increase the Federal share in the case
3 of a grant to a tribal government if the Secretary
4 determines that the tribal government does not have
5 sufficient funds to pay the non-Federal share of the
6 cost of the project.

7 (g) AUDITS.—

8 (1) IN GENERAL.—The Inspector General of
9 the Department of Commerce may conduct an audit
10 of a portion of the grants awarded under this section
11 to ensure that the grant funds are used for the pur-
12 poses specified in this section.

13 (2) USE OF AUDIT RESULTS.—The results of
14 an audit conducted under paragraph (1) and any
15 recommendations made in connection with the audit
16 shall be taken into consideration in awarding any fu-
17 ture grant under this section to a State or tribal
18 government.

19 (3) REPORT TO CONGRESS.—Not later than 3
20 years after the date of enactment of this Act, the In-
21 spector General of the Department of Commerce
22 shall submit to Congress a report that provides a de-
23 scription of the management of the program estab-
24 lished under this section (including a description of

1 the allocation of grant funds awarded under this sec-
 2 tion).

3 ~~(h) AUTHORIZATION OF APPROPRIATIONS.—~~

4 ~~(1) IN GENERAL.—~~There is authorized to be
 5 appropriated to carry out this section \$25,000,000
 6 for each of fiscal years 2002 through 2006.

7 ~~(2) AVAILABILITY FOR TRIBAL GOVERN-~~
 8 ~~MENTS.—~~Of the amount made available under para-
 9 graph ~~(1)~~ for a fiscal year, not less than 5 percent
 10 shall be available to make grants to tribal govern-
 11 ments to the extent that there are sufficient tribal
 12 governments that are eligible for funding under sub-
 13 section ~~(b)~~ and that submit applications.

14 **SEC. 5. ECONOMIC DEVELOPMENT ADMINISTRATION TECH-**
 15 **NICAL ASSISTANCE.**

16 ~~(a) IN GENERAL.—~~The Secretary may develop vol-
 17 untary educational and informational programs for the
 18 use of State, tribal, and local land use planning and zoning
 19 officials.

20 ~~(b) TYPES OF PROGRAMS.—~~Programs developed
 21 under subsection ~~(a)~~ may include—

22 ~~(1)~~ exchange of technical land use planning in-
 23 formation;

24 ~~(2)~~ electronic databases containing data rel-
 25 evant to land use planning;

1 ~~(3) other technical land use planning assistance~~
 2 ~~to facilitate access to, and use of, techniques and~~
 3 ~~principles of land use planning; and~~

4 ~~(4) such other types of programs as the Sec-~~
 5 ~~retary determines to be appropriate.~~

6 ~~(c) CONSULTATION AND COOPERATION.—The Sec-~~
 7 ~~retary shall carry out subsection (a) in consultation and~~
 8 ~~cooperation with—~~

9 ~~(1) the Administrator of the Environmental~~
 10 ~~Protection Agency;~~

11 ~~(2) the Secretary of Transportation;~~

12 ~~(3) the Secretary of Agriculture;~~

13 ~~(4) the heads of other Federal agencies;~~

14 ~~(5) State, tribal, and local governments; and~~

15 ~~(6) nonprofit organizations that promote land~~
 16 ~~use planning at the State, tribal, and local levels.~~

17 ~~(d) AUTHORIZATION OF APPROPRIATIONS.—There is~~
 18 ~~authorized to be appropriated to carry out this section~~
 19 ~~\$1,000,000 for each of fiscal years 2002 through 2006.~~

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Community Character*
 22 *Act of 2002”.*

23 **SEC. 2. FINDINGS.**

24 *Congress finds that—*

1 (1) *inadequate land use planning at the State*
2 *and tribal levels contributes to—*

3 (A) *increased public and private capital*
4 *costs for public works infrastructure develop-*
5 *ment;*

6 (B) *environmental degradation;*

7 (C) *weakened regional economic develop-*
8 *ment; and*

9 (D) *loss of community character;*

10 (2) *land use planning is rightfully within the ju-*
11 *risdiction of State, tribal, and local governments;*

12 (3) *comprehensive land use planning and com-*
13 *munity development should be supported by Federal,*
14 *State, and tribal governments;*

15 (4) *States and tribal governments should provide*
16 *a proper climate and context through legislation in*
17 *order for comprehensive land use planning, commu-*
18 *nity development, and environmental protection to*
19 *occur;*

20 (5)(A) *many States and tribal governments have*
21 *outmoded land use planning legislation; and*

22 (B) *many States and tribal governments are un-*
23 *dertaking efforts to update and reform land use plan-*
24 *ning legislation;*

1 (6) *the Federal Government and States should*
 2 *support the efforts of tribal governments to develop*
 3 *and implement land use plans to improve environ-*
 4 *mental protection, housing opportunities, and socio-*
 5 *economic conditions for Indian tribes; and*

6 (7) *the coordination of use of State and tribal re-*
 7 *sources with local land use plans requires additional*
 8 *planning at the State and tribal levels.*

9 **SEC. 3. DEFINITIONS.**

10 *In this Act:*

11 (1) *LAND USE PLAN.*—*The term “land use plan”*
 12 *means a plan for development of an area that recog-*
 13 *nizes the physical, environmental, economic, social,*
 14 *political, aesthetic, and related factors of the area.*

15 (2) *LAND USE PLANNING LEGISLATION.*—*The*
 16 *term “land use planning legislation” means a statute,*
 17 *regulation, executive order, or other action taken by*
 18 *a State or tribal government to guide, regulate, or as-*
 19 *sist in the planning, regulation, and management*
 20 *of—*

21 (A) *environmental resources;*

22 (B) *public works infrastructure;*

23 (C) *regional economic development;*

24 (D) *current and future development prac-*
 25 *tices; and*

1 (E) other activities related to the pattern
2 and scope of future land use.

3 (3) *SECRETARY.*—The term “Secretary” means
4 the Secretary of Commerce, acting through the Assist-
5 ant Secretary of Commerce for Economic Develop-
6 ment.

7 (4) *STATE.*—The term “State” means a State,
8 the District of Columbia, the Commonwealth of Puer-
9 to Rico, the Virgin Islands, Guam, American Samoa,
10 and the Commonwealth of the Northern Mariana Is-
11 lands.

12 (5) *TRIBAL GOVERNMENT.*—The term “tribal
13 government” means the tribal government of an In-
14 dian tribe (as defined in section 4 of the Indian Self-
15 Determination and Education Assistance Act (25
16 U.S.C. 450b)).

17 **SEC. 4. GRANTS TO STATES AND TRIBAL GOVERNMENTS TO**
18 **UPDATE LAND USE PLANNING LEGISLATION.**

19 (a) *ESTABLISHMENT OF PROGRAM.*—

20 (1) *IN GENERAL.*—The Secretary shall establish
21 a program to award grants to States and tribal gov-
22 ernments eligible for funding under subsection (b) to
23 promote comprehensive land use planning at the
24 State, tribal, and local levels.

25 (2) *GRANT APPLICATIONS.*—

1 (A) *SUBMISSION.*—A State or tribal govern-
 2 ment may submit to the Secretary, in such form
 3 as the Secretary may require, an application for
 4 a grant under this section to be used for 1 or
 5 more of the types of projects authorized by sub-
 6 section (c).

7 (B) *APPROVAL.*—The Secretary shall—

8 (i) not less often than annually, com-
 9 plete a review of the applications for grants
 10 that are received under this section; and

11 (ii) award grants to States and tribal
 12 governments that the Secretary determines
 13 rank the highest using the ranking criteria
 14 specified in paragraph (3).

15 (3) *RANKING CRITERIA.*—In evaluating applica-
 16 tions for grants from eligible States and tribal gov-
 17 ernments under this section, the Secretary shall con-
 18 sider the following criteria:

19 (A) As a fundamental priority, the extent to
 20 which a State or tribal government has in effect
 21 inadequate or outmoded land use planning legis-
 22 lation.

23 (B) The extent to which a grant will facili-
 24 tate development or revision of land use plans

1 *consistent with updated State and tribal land*
 2 *use planning legislation.*

3 *(C) The extent to which development or re-*
 4 *vision of land use plans will facilitate multistate*
 5 *land use planning.*

6 *(D) The extent to which the area under the*
 7 *jurisdiction of a State or tribal government is*
 8 *experiencing significant growth.*

9 *(E) The extent to which the project to be*
 10 *funded using a grant will protect the environ-*
 11 *ment and promote economic development.*

12 *(F) The extent to which a State or tribal*
 13 *government has committed financial resources to*
 14 *comprehensive land use planning.*

15 ***(b) ELIGIBILITY.***—*A State or tribal government shall*
 16 *be eligible to receive a grant under subsection (a) if the*
 17 *State or tribal government demonstrates that the project,*
 18 *or the goal of the project, to be funded by the grant promotes*
 19 *land use planning activities that—*

20 *(1) are comprehensive in nature and, to the*
 21 *maximum extent practicable—*

22 *(A) promote environmental protection (in-*
 23 *cluding air and water quality);*

24 *(B) take into consideration—*

1 (i) *public works infrastructure in ex-*
 2 *istence at the time at which the grant is to*
 3 *be made; and*

4 (ii) *future infrastructure needs, such as*
 5 *needs identified in—*

6 (I) *the needs assessments required*
 7 *under sections 516(2) and 518(b) of the*
 8 *Federal Water Pollution Control Act*
 9 *(33 U.S.C. 1375(2), 1377(b)) and sub-*
 10 *sections (h) and (i)(4) of section 1452*
 11 *of the Safe Drinking Water Act (42*
 12 *U.S.C. 300j–12); and*

13 (II) *the State long-range trans-*
 14 *portation plan developed under section*
 15 *135(e) of title 23, United States Code;*

16 (C) *promote sustainable economic develop-*
 17 *ment (including regional economic development)*
 18 *and social equity;*

19 (D) *enhance community character;*

20 (E) *conserve historic, scenic, natural, and*
 21 *cultural resources; and*

22 (F) *provide for a range of affordable hous-*
 23 *ing options;*

24 (2) *promote land use plans that contain an im-*
 25 *plementation element that—*

1 (A) includes a timetable for action and a
 2 definition of the respective roles and responsibil-
 3 ities of agencies, local governments, and other
 4 stakeholders;

5 (B) is consistent with the capital budget ob-
 6 jectives of the State or tribal government; and

7 (C) provides a framework for decisions re-
 8 lating to the siting of infrastructure develop-
 9 ment, including development of utilities and
 10 utility distribution systems;

11 (3) result in multijurisdictional governmental
 12 cooperation, to the maximum extent practicable, par-
 13 ticularly in the case of land use plans based on water-
 14 shed boundaries;

15 (4) encourage the participation of the public in
 16 the development, adoption, and updating of land use
 17 plans;

18 (5) provide for the periodic updating of land use
 19 plans; and

20 (6) include recognized approaches to land use
 21 planning.

22 (c) *USE OF GRANT FUNDS.*—Grant funds received by
 23 a State or tribal government under subsection (a) may be
 24 used for a project—

1 (1) *to carry out, or obtain technical assistance*
2 *with which to carry out—*

3 (A) *development or revision of land use*
4 *planning legislation;*

5 (B) *research and development relating to*
6 *land use plans, and other activities relating to*
7 *the development of State, tribal, or local land use*
8 *plans, that result in long-term policy guidelines*
9 *for growth and development;*

10 (C) *workshops, education of and consulta-*
11 *tion with policymakers, and participation of the*
12 *public in the land use planning process; and*

13 (D) *coordination of Federal, State, regional,*
14 *tribal, and local land use plans;*

15 (2) *to provide funding to units of general pur-*
16 *pose local government to carry out land use planning*
17 *activities consistent with land use planning legisla-*
18 *tion; or*

19 (3) *to acquire equipment or information tech-*
20 *nology to facilitate State, tribal, or local land use*
21 *planning.*

22 (d) *PILOT PROJECTS FOR LOCAL GOVERNMENTS.—A*
23 *State may include in its application for a grant under this*
24 *section a request for additional grant funds with which to*
25 *assist units of general purpose local government in carrying*

1 *out pilot projects to carry out land use planning activities*
 2 *consistent with land use planning legislation.*

3 *(e) AMOUNT OF GRANTS.—*

4 *(1) IN GENERAL.—Except as provided in para-*
 5 *graph (2), the amount of a grant to a State or tribal*
 6 *government under subsection (a) shall not exceed*
 7 *\$1,000,000.*

8 *(2) ADDITIONAL AMOUNT.—The Secretary may*
 9 *award a State up to an additional \$100,000 to fund*
 10 *pilot projects under subsection (d).*

11 *(f) COST SHARING.—*

12 *(1) IN GENERAL.—The Federal share of the cost*
 13 *of a project funded with a grant under subsection (a)*
 14 *shall not exceed 90 percent.*

15 *(2) GRANTS TO TRIBAL GOVERNMENTS.—The*
 16 *Secretary may increase the Federal share in the case*
 17 *of a grant to a tribal government if the Secretary de-*
 18 *termines that the tribal government does not have suf-*
 19 *ficient funds to pay the non-Federal share of the cost*
 20 *of the project.*

21 *(g) AUDITS.—*

22 *(1) IN GENERAL.—The Inspector General of the*
 23 *Department of Commerce may conduct an audit of a*
 24 *portion of the grants awarded under this section to*

1 *ensure that the grant funds are used for the purposes*
 2 *specified in this section.*

3 (2) *USE OF AUDIT RESULTS.—The results of an*
 4 *audit conducted under paragraph (1) and any rec-*
 5 *ommendations made in connection with the audit*
 6 *shall be taken into consideration in awarding any fu-*
 7 *ture grant under this section to a State or tribal gov-*
 8 *ernment.*

9 (3) *REPORT TO CONGRESS.—Not later than 3*
 10 *years after the date of enactment of this Act, the In-*
 11 *spector General of the Department of Commerce shall*
 12 *submit to Congress a report that provides a descrip-*
 13 *tion of the management of the program established*
 14 *under this section (including a description of the allo-*
 15 *cation of grant funds awarded under this section).*

16 (h) *AUTHORIZATION OF APPROPRIATIONS.—*

17 (1) *IN GENERAL.—There is authorized to be ap-*
 18 *propriated to carry out this section \$25,000,000 for*
 19 *each of fiscal years 2002 through 2006.*

20 (2) *AVAILABILITY FOR TRIBAL GOVERNMENTS.—*
 21 *Of the amount made available under paragraph (1)*
 22 *for a fiscal year, not less than 5 percent shall be*
 23 *available to make grants to tribal governments to the*
 24 *extent that there are sufficient tribal governments that*

- 1 *are eligible for funding under subsection (b) and that*
- 2 *submit applications.*

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A BILL

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SEPTEMBER 18, 2002

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